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FISCAL IMPACT STATEMENT

LS 7842
BILL NUMBER: SB 478

NOTE PREPARED: Feb 21, 2003
BILL AMENDED: Feb 20, 2003

SUBJECT: Predatory lending.

FIRST AUTHOR: Sen. Clark
FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X **GENERAL**
X **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill restricts certain lending acts and practices. The bill establishes the Mortgage Fraud Unit under the Attorney General to enforce this act and investigate violations. The bill preempts regulation of covered acts and practices by political subdivisions. The bill increases mortgage recording fees. The bill allocates increased revenue to the Department of Education, Attorney General, and County Recorders. The bill allows the Securities Commissioner to enter orders of recission, restitution, and disgorgement, including interest at the rate of 8% to loan brokers.

Effective Date: January 1, 2004.

Explanation of State Expenditures: (Revised) ***Securities Commissioner*****-** The bill allows the Securities Commissioner to investigate and conduct hearings concerning violations of the bill. If more investigations are conducted as a result of the bill, additional administrative time could be required to comply with the bill. If the Commissioner were able to coordinate investigations with the Mortgage Fraud Unit established by the bill, some costs generated by investigations could be shared and/or reduced.

Foreclosure Study- The bill requires the Legislative Services Agency (LSA) to contract with the Kelly School of Business at Indiana University to conduct a study on the causes of the high rate of foreclosure in Indiana during 2001 and 2002. The expenditure required for the study would be funded from an allocation of $75,000 in revenue generated from the increased fees provided under the bill. (See *Explanation of State Revenues*.) The study results must be reported in writing to the LSA not later than December 31, 2004. The LSA would be required to distribute the report to the Legislative Council, The Department of Financial Institutions, and the Attorney General.

Mortgage Fraud Unit - This bill establishes the Mortgage Fraud Unit (the Unit), which is to be administered by the Attorney General (AG). The Unit would be required to cooperate and the AG would be allowed to file complaints with, the Professional Licensing Agency, Department of Financial Institutions, Department of Insurance, Securities Division of the Secretary of State, and the Supreme Court Disciplinary Commission in order to implement the Unit's responsibilities. The Unit would also be required to cooperate with these agencies in order to implement and maintain an education program which, is intended to inform mortgage loan consumers of lending fraud.

The Unit may require two additional Deputy Counsels (PAT 1) and one additional law clerk (PAT VI). The estimated direct and indirect cost of these three positions is $68,155 in FY 2004 (under effective date, one-half fiscal year) and $136,150 in FY 2005. The bill provides for the Unit to be funded with various fee revenues (see Explanation of State Revenues). The funds and resources required could also be supplied through a variety of other sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. The Office of the Attorney General has 278 authorized full-time positions. As of January 6, 2003, there were 58 full-time positions vacant. The Office of the Attorney General reverted just under $4,000 from its operating account at the end of FY 2002. Ultimately, the source of funds and resources required to satisfy the requirements of this bill would depend upon legislative and administrative actions.

Explanation of State Revenues: (Revised) ***Mortgage Fraud Unit -*** The bill raises a county recorder's fee for recording a mortgage by $3, of which the recorder would retain $0.50.

According to the Department of Local Government Finance, approximately 200,000 parcels of land are sold or conveyed each year. Assuming that a majority of these filings, or 90%, have a mortgage associated with the parcels, the county recorder fee increase would generate approximately $90,000 for the recorder. The remaining $450,000 (180,000 assumed mortgages * $2.50) would be distributed as follows fifty percent of revenue generated by the above fee increases would be appropriated to the Department of Education (DOE) for the purpose of identifying, promoting, and funding financial literacy training and programs. The remaining fifty percent would appropriated to the Unit to carry out the responsibilities under the bill.

If only half of the filings, or 100,000, have a mortgage associated with the parcels, the fee increase would generate $50,000 for the recorder and $125,000 for the Unit and $125,000 for the DOE per fiscal year. **($125,000 X 2 = $250,000).**

Note: Under the bill, the first $75,000 in fees collected would be used for the mortgage foreclosure study before any further allocations would be made to the Unit and the DOE.

Civil Penalties- The bill establishes civil penalties not exceeding $15,000 per offense to be imposed by the Attorney General for certain violations specified in the bill. Court and investigative costs incurred by the state may also be recouped.

Background: Revenue from loan broker regulation is currently deposited into the Loan Broker Regulation Account (LBRA). In FY 2002, the LBRA received $55,000 in revenue from loan broker licensing fees.

Explanation of Local Expenditures:

<u>Explanation of Local Revenues:</u> *Summary: **Mortgage Fraud Unit*** **-** County recorders' revenues will increase by $0.50 per mortgage filing (see Explanation of State Revenues).

<u>State Agencies Affected:</u> Office of the Attorney General; Professional Licensing Agency and appropriate licensing boards; Department of Financial Institutions; Department of Insurance; Office of the Secretary of State, Securities Division; Indiana Supreme Court; Department of Education, Legislative Services Agency.

<u>Local Agencies Affected:</u> County recorders.

<u>Information Sources:</u> State Budget Agency; Department of Local Government Finance; *HRM Detail Staffing Report Position and Employee Totals 01/06/2003*;

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